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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

In re Applications of SPRINT CORPORATION, )  
Transferor, and MCI WORLDCOM, INC., )  
Transferee, for Consent to Transfer Control )  
Of Corporations Holding Commission )  
Licenses and Authorizations Pursuant to )  
Sections 214 and 310(d) of the Communications )  
Act and Parts 1, 21, 24, 25, 63, 78, 90, and 101 )

CC Docket No. 99-333

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COMMENTS OF THE UTILITY REFORM NETWORK (TURN),  
INDIANA OFFICE OF UTILITY CONSUMER COUNSEL,  
MAINE PUBLIC ADVOCATE,  
MARYLAND OFFICE OF PEOPLE'S COUNSEL,  
AND MISSOURI PUBLIC COUNSEL  
REGARDING THE APPLICATION FOR CONSENT TO TRANSFER CONTROL

February 18, 2000

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## **I. INTRODUCTION AND SUMMARY OF COMMENTS**

The Utility Reform Network (TURN), the Indiana Office of Utility Consumer Counsel, Maine Public Advocate, Maryland Office of People's Counsel, and Missouri Public Counsel (collectively "Consumer Representatives") hereby submit these opening comments regarding the application of MCI WorldCom, Inc. (MCI Worldcom) and Sprint Corporation (Sprint) (collectively "the Applicants") for approval of the transfer of control of Sprint's operations to Worldcom.

Consumer Representatives oppose the application, as currently presented, on the grounds that the consolidation of the second and third largest long distance companies will harm competition and increase prices for the provision of long distance service. The merger should only be approved if approval is conditioned on a divestiture of one of the applicants' long distance operations.<sup>1</sup>

The proposed merger would consolidate dominance of the long distance industry into a Big Two, consisting of AT&T and the new Worldcom. Together, these two firms would hold an 82% share of the residential long distance market. Consolidating over four-fifths of the market in two companies would enable AT&T and Worldcom to raise prices for mass market consumers, particularly low-volume users of long distance service.

Unfortunately, the recent past provides telling evidence of the price hikes that could be expected from a Big Two. Since the announcement of the MCI/Worldcom merger in late 1997, the Big Three (AT&T, MCI, and Sprint) have already successfully

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<sup>1</sup> Consumer Representatives also have concerns regarding the impact of the merger on the Internet backbone market. However, because of resource limitations, Consumer Representatives will not focus on that issue in the expectation that other parties will address it.

raised prices for low-volume users. Whereas the Big Three had been marketing plans that did not require the payment of any fixed charges, in the last 12 to 18 months, such offers have disappeared from their solicitations. Customers who just two years ago were offered a plan that charged a flat 15 cents per minute (or less) without any fixed charges, now are offered 7 cent per minute (or less) plans with \$5 fixed fees<sup>2</sup>. Consequently, a customer with 30 minutes of long distance usage is now paying roughly 24 cents per minute, about 60% more for long distance service from a Big Three carrier. The Big Three have raised prices for low volume customers and have not been punished in the market. In fact, from year end 1997 to 1998, they even managed a slight increase in their collective share of the residential market.

The large increases in long distance capacity that have been built in recent years -- and will continue to be built -- will not prevent the Big Two from increasing prices. As this Commission well knows, mass market customers respond to brand name recognition and advertising. Upstart carriers with lower rates have been unable to overcome the value of years of Big Three advertising that has established them as trustworthy suppliers of long distance service. The proposed merger would concentrate an even larger war chest for marketing and advertising in the hands of a Big Two, which would thereby be even better equipped to fend off challenges from the upstart carriers.

Consumer representatives do not object to the merger of the complementary operations of the two companies, particularly the local and wireless operations. However, applicants' assertion that MMDS technology will render them potent competitors against the incumbent local carriers is highly speculative. Consolidation and

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<sup>2</sup> The \$5 fixed fee does not include the additional, usually undisclosed, charge associated with the primary

higher prices in the long distance market are too high a price to pay for the speculative possibility of a stronger competitor in local markets.

## **II. IDENTITY OF COMMENTERS**

TURN is an independent, non-profit consumer advocacy organization which advocates for the interests of California's residential and small business telecommunications consumers (in addition to consumers of gas and electric services). TURN is supported primarily by the dues paid by its approximately 30,000 members, by attorneys' fees awards, and by grant funds. TURN does not accept contributions from telecommunications corporations or other utilities.

The Indiana Office of Utility Consumer Counsel (OUCC) is an agency of the State of Indiana duly authorized to represent the Indiana utility consumers in federal and state proceedings, including proceedings before the FCC. Indiana Code Sec. 8-1-1.1-9.1.

The Maine Public Advocate is an official of the State of Maine charged by the Legislature with representing consumers of utility services in Maine. The Public Advocate is appointed by the Governor of Maine and represents consumers before the Maine Public Utilities Commission, the Federal Energy Regulatory Commission, the Federal Communications Commission and the courts.

The Maryland Office of People's Counsel is an independent state agency mandated to appear before any state or federal agency on behalf of the residential and noncommercial users of telephone service. *See* Md. Code Ann., Public Utility Companies, Secs. 2-201 to 2-205 (1999).

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interexchange carrier charge (PICC).

The Missouri Public Counsel is a state agency designated by Missouri statute to represent public utility ratepayers before regulatory agencies and the courts.

### **III. THE PROPOSED MERGER WILL HARM COMPETITION IN THE LONG DISTANCE INDUSTRY**

#### **A. The Consolidation of the Second and Third Largest Carriers Will Increase the Opportunity for Price Increases in the Long Distance Market Fostered by Coordinated Pricing**

The starting point for an examination of the competitive effects of a merger is to assess the current market concentration and the increase in market concentration that would result from the merger. By any measure, the proposed merger would dramatically increase concentration in an already highly concentrated industry.

**Table 1**  
**Market Shares By Revenue of Long Distance Carriers<sup>3</sup>**

	<b>AT&amp;T</b>	<b>MCI/ Wcom</b>	<b>Sprint</b>	<b>All Others</b>
<b>National - All Customers<sup>4</sup></b>	43.1	25.6	10.5	20.8
<b>National - Res. Customers<sup>5</sup></b>	58.3	18.4	5.7	17.6

Table 1 depicts market share by revenue for the current "Big Three" long distance carriers based on statistics for year-end 1998 reported by the FCC. The first line shows market share based on total intrastate and interstate long distance revenues for the entire nation. The second line shows market share based on intrastate and interstate revenues derived from *residential* customers.

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<sup>3</sup> Excludes local carriers.

<sup>4</sup> Source: FCC Common Carrier Bureau, *Trends in Telephone Service*, September 1999, Table 11.3.

These statistics show that the proposed merger would transfer dominance of the long distance industry from a Big Three to a Big Two. A merger of MCI Worldcom and Sprint would consolidate 79% of the overall long distance market in two companies. The closest competitor to the Big Two in terms of market share, the Qwest companies, has just a 2.4% market share.<sup>6</sup>

In the overall residential market, the concentration would be even greater.<sup>7</sup> Based on the figures shown above, the Big Two would control 82% of the residential market.<sup>8</sup> More disturbing, the FCC statistics show that the toehold of all other long distance carriers in the residential market actually slipped from 18.1% in 1997 to 17.6% in 1998.<sup>9</sup> Thus, notwithstanding the new facilities-based competitors in the long distance industry, AT&T, MCI Worldcom and Sprint are retaining their overwhelming dominance of the residential long distance market, and have even gained market share at the expense of their challengers.

The effect of this increase in concentration would be to increase the opportunity for and the likelihood of coordinated pricing among just two companies that would dominate the long distance industry, particularly the residential and small business markets. Coordinated prices means higher prices, even in the face of steady decreases in input costs such as access charges and switching costs. As the next section will show,

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<sup>5</sup> *Id.*, Table 11.5.

<sup>6</sup> *Id.*, Table 11.2. Calculated based on revenue figures for 1998.

<sup>7</sup> The Commission does not present separate market share data for small business customers. However, as the FCC has recognized (discussed below), small business customers share many of the same demand characteristics as residential customers. Consequently, Consumer Representatives believe that, as with the residential market, the Big Three have a higher than average aggregate market share in the small business market.

<sup>8</sup> *Id.*, Table 11.5.

even without this merger, the Big Three have already succeeded in raising prices substantially for low volume users of long distance service.

**B. The Current Concentration in the Long Distance Industry Has Already Permitted Substantial Price Increases for Low Volume Customers; the Proposed Merger Would Only Increase the Opportunity for Price Increases**

**1. Low Volume Customers Have a Distinct Pattern of Demand and Are a Distinct Market**

In examining the competitive effects of mergers, the FCC has recognized that it is necessary to identify distinct markets reflecting customers groups with "different patterns of demand."<sup>10</sup> In the MCI Worldcom Order, the FCC identified two separate markets: (1) the mass market, consisting of residential and small business customers and (2) the larger business market, consisting of medium-sized and large business customers. The FCC explained that these two groups differ as follows:

[M]ass market consumers tend to purchase relatively small volumes of basic switched minutes based on mass marketing advertising by carriers. Larger business customers, on the other hand, tend to require higher volumes of long distance services and combinations of advanced features.<sup>11</sup>

Thus, a key factor in determining that it was necessary to analyze the mass market and large business market separately was the difference in the level of volume of long distance usage.

Developments in the marketing of long distance services have now made it necessary to consider separately another group of customers with a different pattern of

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<sup>9</sup> Compare *id.*, Table 11.5 with FCC Common Carrier Bureau, *Long Distance Market Shares, Fourth Quarter 1998*, March 1999, Table 4.2. This reversed a more promising trend in previous years in which the other carriers had begun to gain market share against the Big Three.

demand: mass market customers with low volumes of long distance calling. As discussed below, the marketing to mass market customers is now dominated by offers that require the payment of high fixed (*i.e.*, non-usage based) charges in addition to usage charges. In this marketplace, low-volume customers have a different pattern of demand that makes their needs distinctly different from those of other mass market customers. Because of their low usage, low-volume customers do not benefit from offers with high fixed charges. Instead, their bills are lower even if they pay higher usage rates than other customers, as long as they pay lower or no fixed charges. Just as this Commission found it necessary to distinguish the markets for mass market and larger business customers based on levels of usage, it is also necessary to consider low-volume mass market customers as a separate market with a separate pattern of demand.

The Commission has already recognized that changes in the long distance marketplace warrant separate analysis of the impacts on low-volume users. In its July 1999 Notice of Inquiry, the Commission expressed concern that low-volume consumers may not be experiencing the same benefits from changes in long distance pricing as other customers. The Commission expressed the intent to ensure that "low-volume residential and single-line business consumers . . . share the benefits of a rational rate structure in an equitable manner."<sup>12</sup> To that end, the Commission requested comments on a variety of questions designed to assess whether changes were necessary in order to address the distinct issues associated with low-volume usage customers.

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<sup>10</sup> *In re Application of WorldCom, Inc. and MCI Communications Corporation for Transfer of Control of MCI Communications Corporation to WorldCom, Inc.*, Decision FCC 98-225, Sept. 14, 1998 ("MCI Worldcom FCC Order"), ¶ 24.

<sup>11</sup> *Id.* at ¶ 67, fn 212.



## **2. Through High Fixed Charges, the Big Three Have Raised Rates for Low Volume Customers**

Since MCI and WorldCom announced their merger in November 1997, the Big Three have changed the nature of their offers to mass market customers dramatically. Whereas the Big Three had been marketing plans that did not require the payment of any fixed charges, in the last 12 to 18 months, such offers have disappeared from the mass market solicitations of the Big Three. As the San Francisco-based consumer advocacy group Consumer Action (CA), which surveys mass market long distance offers, recently explained:

All the standard calling plans of long distance market leaders AT&T, MCI and Sprint now have monthly fees and/or minimum spending requirements, according to Consumer Action's new Long Distance Rate Survey.

'This is a much changed long distance landscape,' said Linda Sherry . . . . 'The majority of calling plans surveyed last year had no recurring monthly fees or other special added costs or conditions. This year, the number of plans with monthly fees or minimums almost doubled.'<sup>13</sup>

Long distance offers by the Big Three now include either minimum charges (against which usage is credited), typically in the \$5 per month range, or fixed fees, again typically in the \$5 per month range. MCI Worldcom offers a plan that includes both: a \$5 minimum and a \$1.95 monthly fee.<sup>14</sup>

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<sup>12</sup> *In the Matter of Low-Volume Long-Distance Users*, Notice of Inquiry, CC Docket No. 99-249, July 20, 1999, ¶ 13.

<sup>13</sup> "Callers hit with monthly minimums or fees," *Consumer Action News*, Summer 1999, p. 1 (A copy of the complete article can be found at:

[http://www.consumer-action.org/Library/English/Newsletter/NL-I-12\\_EN/NL-I-12\\_EN.html#Topic\\_01](http://www.consumer-action.org/Library/English/Newsletter/NL-I-12_EN/NL-I-12_EN.html#Topic_01).

<sup>14</sup> Consumer Action, "1999 Long Distance Rate Survey Update", Fall 1999, reprinted at:

[http://www.consumer-action.org/Library/English/Newsletter/NL-I-12\\_EN/NL-I-12\\_EN.html#Topic\\_10](http://www.consumer-action.org/Library/English/Newsletter/NL-I-12_EN/NL-I-12_EN.html#Topic_10).

TURN's own research, discussed below, confirmed that the Big Three's service representatives do not market plans without high fixed charges.

The new minimum charges and monthly fees have dramatically increased the rates for low volume customers. Before the switch to high fixed charges, a customer of a Big Three carrier could typically obtain a 15 cent per minute rate (or lower) for all interstate calls without any fixed charges. Now, with a \$5 monthly fee and a 7 cent per minute rate, a customer with 30 minutes of monthly long distance calls pays 24 cents per minute, a minimum 60% rate increase. Of course, the size of the rate hike increases as the customer's volume decreases.

In addition to the rate increases described in this paragraph, low-volume customers are also adversely affected by new fixed charges associated with the presubscribed interexchange carrier charge (PICC). Even though carriers have full discretion with respect to how much, if any, of PICC charges to pass through to customers, the applicants and AT&T typically do not disclose these charges in their broadcast media advertisements, in their newspaper ads, or even in inbound telemarketing (see discussion of TURN's telephone survey in the next section). By failing to disclose these charges in marketing and by assigning them billing labels that suggest they are surcharges or taxes, the Big Three undermine the ability of smaller carriers to attempt to compete by absorbing some or all of PICC charges.

### **3. The Big Three No Longer Market Rates That Meet the Needs of Low Volume Customers**

Big Three long distance carriers have argued that they still offer rates that are attractive to low-volume customers. To support this claim, they typically point to rates that appear in their tariffs.

From the perspective of attempting to assess the rates that are actually available to mass market consumers, tariffs are irrelevant. Mass market customers do not read tariffs.

Customers only know the rates about which they are informed. Thus, the Commission should reject any tariff-based claims that rates have not increased.<sup>15</sup>

The best way to assess the rates paid by low-volume customers is to examine the offers of the long distance carriers that are actually presented in the real world. In connection with the FCC's Low-Volume User docket, in October 1999, TURN conducted a telephone survey of service representatives for the Big Three Carriers. TURN's legal assistant, Hayley Goodson, placed a total of 13 calls -- five to AT&T, and four each to MCI and Sprint. She posed as a low-volume customer seeking the best deal. Goodson Declaration, (Attachment 1 to these comments), ¶¶1-2.

Even though Ms. Goodson was posing as a low volume caller, every single one of the 13 representatives first recommended plans that had high monthly fees or minimum charges that were more appropriate for high volume callers. *Id.*, ¶13. For instance, all four of the MCI representatives recommended plans with a minimum monthly charge of \$4.95. *Id.* ¶7. Similarly, all four of the Sprint representatives recommended plans with a monthly minimum charge of at least \$5, even though each inquired about Ms. Goodson's calling patterns. *Id.*, ¶10. Likewise, all five AT&T representatives recommended plans with at least a \$4.95 monthly charge. *Id.*, ¶4.<sup>16</sup>

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<sup>15</sup> In addition, arguments about the level of rates that are based on currently available average revenue per minute (ARPM) analyses also miss the point. ARPM analyses typically include industry-wide revenues and minutes, and data from low volume customers are overwhelmed by data from all other customers. Even if an ARPM analysis segregated residential data from business data, rate decreases for high volume customers would mask the rate increases suffered by low volume customers.

<sup>16</sup> In addition, in none of the 13 calls did the carrier representative volunteer the existence of additional charges associated with the PICC and universal service fund (USF) levies. Ms. Goodson was only told about such charges when she specifically asked about additional fees. Even then, four of the representatives did not mention PICC or USF charges. *Id.*, ¶ 14. By failing to disclose all applicable charges over which they have discretion, the Big Three erect a barrier to competition by smaller carriers who wish to compete through assessing lower (or no) PICC and USF charges.

This snapshot of the real world shows that the Big Three feel no need to attempt to offer low-volume users the best available deal tailored to their pattern of usage. The tariffed rates show that the Big Three have *the potential* to offer better rates for low-volume customers; in reality, they do not offer them. Even though some of the much smaller carriers -- with market shares of 2% or less -- offer plans with lower or no fixed charges, the Big Three push plans with high fixed charges, even when they are not suited to the customers' calling patterns. Quite obviously, the Big Three are not concerned that they will be punished in the marketplace if they attempt to sell the customer the wrong plan.

#### **4. The Proposed Merger Would Only Exacerbate the Coordinated Pricing That Is Now Occurring**

With three carriers dominating the mass market, it is already easy for the Big Three to at least tacitly coordinate pricing. Tacit coordination explains the pricing behavior of the Big Three. One of the three could attempt to market a plan that is attractive for low-volume callers, similar to plans they all offered just two years ago. However, they have found that the much smaller carriers will not take away sufficient revenue to justify such an attempt to satisfy the needs of the low-volume market. Instead, they collectively benefit from each refraining to offer lower priced alternatives.<sup>17</sup> In other words, they have increased prices for the low-volume market and have gotten away with it.<sup>18</sup>

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<sup>17</sup> As explained above, they also collectively benefit from not disclosing charges associated with the PCCC and USF.

<sup>18</sup> In the Low-Volume User docket, the FCC directed long distance carriers to provide specific data to support their claims that fixed charges are cost justified. NOI, ¶ 14. The long distance carriers failed to provide the requested data or calculations, as TURN explained in its reply comments in that docket. A copy of those comments can be found at Attachment 2 to this protest.

Further consolidation in the long distance industry can only increase the ability of the market leaders to coordinate to raise prices. In assessing the impact of increased concentrations through mergers, it is necessary to consider the sophistication and bargaining power of buyers in the relevant market and whether they can effectively respond to anticompetitive price increases. In contrast to the large business customers who were under consideration in the MCI/Worldcom merger,<sup>19</sup> mass market customers, particularly low-volume customers, are not sophisticated purchasers with significant bargaining power. The experience of the past 18 months has already shown that low-volume customers have been unable to defeat the Big Three rate hikes, even though other carriers offer lower prices. Indeed, as noted previously, the collective market share of the Big Three in the overall residential market actually increased slightly from year end 1997 to year end 1998.

In sum, the current level of concentration has already harmed mass market customers through price increases. The proposed merger would only entrench this harm and increase the likelihood of additional harm to competition.

#### **IV. NONE OF THE APPLICANTS' ARGUMENTS JUSTIFY ADDITIONAL CONSOLIDATION IN THE LONG DISTANCE INDUSTRY**

The applicants present a series of arguments intended to show that the merger will not harm long distance competition and that substantial merger benefits outweigh any potential harm. None of their arguments justify increased long distance consolidation and the additional harm to competition that would result. Consumer Representatives address these arguments serially, not necessarily in the order they are presented in the application.

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<sup>19</sup> MCI Worldcom Order, ¶ 65.

**Excess Capacity.** The applicants rely heavily on the large increases in capacity that have been built and are continuing to be built. They argue that there are low barriers to entry and that competitors could defeat any attempt to raise prices.

Consumer Representatives do not dispute that significant additional capacity has been built and is continuing to be built. However, Consumer Representatives disagree with the claim that the smaller carriers would have the ability to defeat price increases implemented by a Big Two. The experience of low-volume customers recounted above shows precisely the contrary. The small competitors have not been able to break the stranglehold of the Big Three on the mass market.

As the FCC recognized in the MCI WorldCom Order, "brand name recognition is a 'critical' asset for offering services in the mass market."<sup>20</sup> Mass market customers respond to advertising.<sup>21</sup> Upstart carriers have been unable to overcome the value of years of Big Three advertising that has established them as trustworthy suppliers of long distance service. A combined MCI WorldCom and Sprint would have even greater resources for advertising, which would only raise the bar for competitors attempting to gain a toehold in the mass market. In sum, the problems raised by this merger have nothing to do with capacity. Instead, the harm to competition will result because of factors such as the difficulty of overcoming the advantages of the dominant carriers in the areas of advertising and brand name recognition.

**Erosion of distinction between local and long distance.** The applicants contend that the distinction between local usage and long distance usage is disappearing and that, in the future, customers will just purchase "minutes" without regard to whether they are

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<sup>20</sup> MCI Worldcom Order, ¶ 170, fn 470.

local or long distance. The suggestion is that competitive analysis should not treat long distance and local as separate product markets.

The applicants are wrong in suggesting that a separate market for long distance will disappear in the near future. First, the long distance market is huge. FCC data show that, in 1998, intrastate and interstate toll revenues totaled \$105 billion, or 43% of industry-wide telecommunications revenue, which includes wireless revenues.<sup>22</sup> A market this big, that makes up such a large percentage of customer bills, is not going to vanish quickly.

Second, the applicants overlook critical structural differences between local and long distance. Local calls do not involve access charges and, with bill and keep compensation, no per-minute charges are exchanged for local calls between carriers. Thus, local calls are much cheaper to provide than long-distance calls.

Third, the bundles of local and long distance calling that the applicants tout are only likely to be attractive for high-volume toll callers. Flat rate local service in most states already affords residential customers unlimited local calling for a reasonable price. For the large portion of customers who need local calling for Internet access and voice service but who do not make many long distance calls, a bundled package is unlikely to be attractive. These customers will still want to buy long distance separately, unless the bundled price is only slightly higher than the price for local service.

**RBOC entry into the long distance market will prevent any anti-competitive effects of long distance consolidation.** The applicants rely on the potential that regional

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<sup>21</sup> MCI Worldcom Order, ¶67, fn 212.

<sup>22</sup> FCC Common Carrier Bureau, *State-By-State Telephone Revenue and Universal Service Data*, January 2000, Figure 1.

Bell operating companies (RBOCs) will begin providing long distance service at some point in the future. The implicit claim is that RBOC entry will undo the increased concentration caused by this merger.

Consumer Representatives disagree that potential RBOC entry negates the problems created by increased consolidation. First, even applicants implicitly acknowledge that RBOCs will not gain long distance entry in all states in time to be considered relevant to competitive analysis. Applicants assert only that "some, if not many" RBOC Section 271 applications will be approved by February 2001. (Application at 34). Thus, even applicants concede that at least some, and perhaps many, RBOC applications will *not* have succeeded by February 2001. Nor do applicants offer support for their confidence that some or many RBOCs will have met the 271 requirements. Other than New York, in which Bell Atlantic has gained 271 approval, applicants can only be speculating about the success of RBOC applications. In states such as California, 271 approval will hinge to a large degree on the success of tests of complex operations support systems (OSS). Without knowing the results of such tests, no reasonable predictions about the timing of RBOC entry can be made.

Second, if and when RBOCs enter the long distance marketplace in various states, such entry only restores the industry to three large competitors, a number which still facilitates coordinated pricing. As shown above, the current Big Three have succeeded in raising prices for low-volume customers. If such coordinated pricing occurs now, a Big Three that includes an RBOC should also find that a profitable strategy.

Third, for large business customers who need nationwide networks, a regional BOC is not a feasible alternative.



**MCI WorldCom needs this merger in order to compete with AT&T and the "mega-Bells".** The applicants argue that they need to combine their local and wireless operations in order to be able to pose a threat to AT&T and the mega-Bells, who have (or will have in AT&T's case) the ability to market all telecommunications services to all customers.

Consumer Representatives do not object to the merger of the complementary operation of the two companies, particularly the local and wireless operations. However, consolidation and higher prices in the long distance market are too high a price to pay for a potentially stronger competitor against incumbents in local markets. In this regard, Consumer Representatives note that applicants rely heavily on unproven MMDS technology as a means of becoming a challenger in the mass market for local service. At this point, it is speculative that MMDS will meet applicants' expectations, just as it was speculative that unbundled network elements (UNEs) would permit widespread mass market competition. In California, the largest market in the United States, competitors have not yet been able to use UNEs to serve the mass market, and the prospects for UNE-based competition are poor.

Second, this merger is not the right way to deal with the ability of incumbent local carriers such as Pacific Bell to exploit their local monopolies as a means of extending their dominance into other markets. The requirements of Section 271 of the Telecommunications Act should be interpreted as they were intended, to prevent long distance entry by RBOCs until there is a real opportunity for vigorous local competition in the mass market.

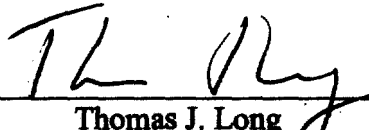
## V. CONCLUSION

The foregoing has shown that the proposed merger will harm long distance competition by increasing the ability of AT&T and the new Worldcom to raise prices for mass market customers, especially low-volume consumers. The merger should not be approved unless one of the long distance operations is divested.

Dated: February 17, 2000

Respectfully submitted,

THE UTILITY REFORM NETWORK

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**ATTACHMENT 1**

**Declaration of Hayley C. Goodson**  
**(Originally Filed in the Low-Volume User Docket)**

## **APPENDIX A**

### **Declaration of Hayley C. Goodson**

I, Hayley C. Goodson, declare as follows:

1. I am the Legal Assistant for The Utility Reform Network and my business address is 711 Van Ness Avenue, Suite 350, San Francisco, California 94102. I was asked by TURN's attorney in this matter, Thomas Long, to conduct a series of test calls to AT&T, MCI Worldcom and Sprint as a means of assessing the information they provide to potential customers.

#### **Methodology for Test Calls**

2. On the 18<sup>th</sup> and 19<sup>th</sup> of October, 1999, I placed thirteen calls to AT&T, MCI Worldcom and Sprint, inquiring about long distance calling plans. I called AT&T five times, and MCI Worldcom and Sprint four times each. I asked each customer service representative to tell me about the best deals available from her or his company. If and when I was asked about my calling patterns, I explained that I made between zero and thirty minutes of calls per month, primarily during weekday evenings and weekends.
3. I asked the service representatives to describe the deals that they thought would be best for me. If the representative with whom I was speaking omitted information about flat monthly fees, PICC or USF charges, I specifically asked whether or not additional monthly charges would appear on my bill. I also asked for clarification about intrastate rates when distinct rates for in-state calls were not

mentioned. Finally, I gave each representative the opportunity to tell me about multiple plans that might suit my long distance needs by asking whether or not other plans might be equally or more beneficial for me.

#### **Calls to AT&T**

4. On October 18, 1999, I spoke with five different AT&T customer service representatives in five separate calls. Four of the five representatives first recommended the "One Rate 7 Cents" plan, which carries a monthly fee of at least \$4.95. Two representatives first suggested this plan even after inquiring about my calling patterns and learning how few calls I would be making. None of the five representatives ever suggested a plan with a minimum fee below \$4.95. For example, none ever suggested the One Rate 15 cent plan, discussed on page 26 of AT&T's comments. Nor did anyone ever suggest the Monthly Minutes 30 for \$3 plan discussed on page 27 of AT&T's comments. Instead, based on the information I was given in these five calls, the best possible deal for a low-volume customer would have a monthly charge of \$4.95, in addition to \$2.50 for the PICC and USF, resulting in a total of \$7.45 in fixed monthly charges. Of course, usage charges would be additional to these monthly charges.
5. In my five calls to AT&T, I found that the service representatives' descriptions of the deals they were proposing failed to disclose all applicable fixed charges. In all cases, I found it necessary to specifically ask about any additional fees and charges before I was even told about the PICC and USF charges. One person did

not even mention the \$4.95 monthly fee until I asked her about other fees or charges. Another failed to disclose the PICC and USF charges even after being prompted for additional charges.

6. In my five calls to AT&T, I was given conflicting information as well as information that was incorrect. With respect to intrastate rates, representatives gave me conflicting information about rates under supposedly the same plans. For example, I was told that intrastate calls with the "AT&T One Rate Seven Cents" plan would cost \$.07 per minute by three representatives. A fourth said the rate was \$.05 per minute, and the fifth, \$.10 per minute. In addition, I was incorrectly informed by one representative that California prohibits intrastate rates less than \$.07 per minute. Another service representative incorrectly told me that all long distance companies will charge \$2.50 for the PICC and USF charges.

#### **Calls to MCI Worldcom**

7. On October 18, 1999, I spoke with four different MCI Worldcom customer service representatives in four separate calls. Two of the four representatives first suggested plans with \$4.95 monthly fees, while the other two suggested \$5.00 minimum plans. None of the representatives ever informed me of a plan with a minimum fee below \$4.95. Based on the information presented to me in these four calls, the best plan for a low-volume customer would have a monthly charge of \$4.95 plus \$1.46 for PICC, in addition to an unspecified USF surcharge, bringing the total fixed monthly charges to \$6.41.

8. In my four calls to MCI Worldcom, I found that the service representatives' descriptions of the deals they were proposing failed to disclose all applicable fixed charges. None volunteered the PICC and USF, and only three of the four mentioned the amount of these charges when specifically asked about additional fees. Furthermore, one representative presenting a plan with both a \$1.95 monthly fee and \$5.00 minimum mentioned only the \$1.95 fee and omitted the \$5.00 minimum, even when specifically asked about a minimum charge.
9. In my four calls to MCI Worldcom, I was also given conflicting information about intrastate rates supposedly under the same plans. For example, two customer service representatives told me that the intrastate call rate would be \$.10 per minute with "MCI Five Cents Everyday Savings." A third representative said that the intrastate rate for this same plan would be \$.04 per minute.

#### **Calls to Sprint**

10. On October 19, 1999, I spoke with four different Sprint customer service representatives in four separate calls. Even after inquiring about my calling patterns, three of the four representatives suggested the "Sprint Nickel Night" plan with a \$5.95 monthly fee, and the fourth recommended a \$5.00 minimum charge plan. Only one was willing to tell me about a plan other than that initially proposed; the others insisted that the first was the only plan they could recommend for "low billers." None of the four representatives ever suggested a plan with a minimum monthly charge below \$5.00. Instead, based on the

information I was given in these four calls, the best plan for a low-volume customer would have a fixed monthly charge of \$6.50, consisting of a \$5.00 minimum charge plus \$1.50 for PICC.

11. In my four calls to Sprint, I found that the service representatives' descriptions of the deals they were proposing failed to disclose all applicable fixed charges. As with my calls to AT&T and MCI Worldcom, the representatives never volunteered the PICC and USF. Even after I specifically asked about additional charges, two of the four denied *any* additional charges, and one mentioned only that "taxes" would be added. Only one of the four representatives conceded that there was a \$1.50 line charge plus "FCC taxes."
12. In my four calls to Sprint, I received conflicting information regarding rates for intrastate calls under plans with identical names. For example, two representatives told me that all intrastate calls cost \$.05 per minute with the "Sprint Nickel Night" plan, whereas a third describing this same plan said the rate varied with distance between \$.10 and \$.12 per minute.

#### **Summary of Findings**

13. In my thirteen calls to AT&T, MCI Worldcom and Sprint on October 18 and 19, 1999, I was not told about a single calling plan with fixed monthly charges less than \$6.41. Even when customer service representatives inquired about my calling patterns and learned that I made between zero and thirty minutes of long distance calls per month, a less expensive plan was never recommended.



14. In each of my thirteen calls to AT&T, MCI Worldcom and Sprint on October 18 and 19, 1999, the service representatives' descriptions of the deals they were proposing failed to disclose all applicable fixed charges. In no call was I told about PICC or USF charges until I specifically asked about additional fees. However, even when I specifically asked about charges, fees, and minimums aside from metered rates, two representatives failed to disclose a monthly fee or minimum charge, and four did not mention PICC or USF charges.
15. In my thirteen calls to AT&T, MCI Worldcom and Sprint on October 18 and 19, 1999, I was given conflicting information regarding intrastate rates offered under supposedly the same calling plans.

I certify that the foregoing statements are true and correct to the best of my knowledge.

Executed at San Francisco, California on October 20, 1999.

/s/ Hayley C. Goodson

Hayley C. Goodson

## **ATTACHMENT 2**

### **TURN's Reply Comments In the Low-Volume User Docket**

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION**

In the Matter of )

CC Docket No. 99-249

Low-Volume Long-Distance Users )

**REPLY COMMENTS OF THE UTILITY REFORM NETWORK (TURN)**

October 20, 1999

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## **I. INTRODUCTION AND SUMMARY OF REPLY COMMENTS**

In our opening comments, The Utility Reform Network (TURN) showed that large interexchange carriers (IXCs) such as AT&T are now charging low volume customers per-minute rates more than 400% higher than the per-minute rates paid by high volume customers. TURN contended that the gross disparity in charges is not cost justified and therefore constitutes unlawful price discrimination.

In their opening comments, the IXCs have spurned the FCC's request for specific "data and calculations" that would supply a cost justification for the huge rate disparity. The vague cost justifications they offer up rely on a vast sum of unquantified costs -- such as the costs of providing adequate network capacity and the costs of marketing plans that are geared to high volume customers -- that cannot fairly be attributed to low volume customers. Whereas the IXCs object to any averaging of costs that would work to the detriment of high volume customers, they happily endorse such averaging when it can justify high charges on the customers who lack clout in the marketplace. For example, AT&T has no qualms about using average costs to justify a flat \$.99 charge to recover usage-based universal service fund (USF) charges, even though a no-usage customer imposes not a penny of cost on AT&T.

The IXCs engage in a dangerous combination of circular reasoning and head-in-the-sand analysis to justify their high fixed fees and minimum charges. There *is* no problem, they say, because the market is competitive and textbook economic theory tells us that whatever results from a competitive market is good for consumers. They assert

that carriers must tailor their offers to meet the needs of all consumers, including low volume users, or else be punished in the marketplace. They cite tariffs as evidence that carriers indeed offer good deals for presubscribed low volume customers.

Unfortunately, the real world of long distance rates is very different from the marketplace depicted in economics texts and tariffs. TURN has conducted a telephone survey of AT&T, MCI Worldcom, and Sprint to assess what information consumers are actually receiving about long distance rates. In the real world, carrier representatives do not volunteer any information about PICC charges and USF charges. As a result, customers have no reason to even include such charges in their price comparisons. In the real world, carrier representatives do not tell consumers about the tariffed plans that would best suit the needs of a low volume caller. Instead, they push plans with high monthly fees or minimum charges that are designed for high volume callers.

When the Commission looks at the real world, it will see that competition is not disciplining prices for the benefit of low volume customers. Contrary to the wishful thinking of the IXC's, there is indeed a problem – low volume customers are paying far more than their fair share for long distance service. The IXC's are successfully recovering a disproportionate amount of costs from customers who are not the cost causers. Among other reasons, this is happening because low volume customers lack clout in the marketplace and because they are not getting the information they need in order to vote with their feet. Unfortunately, with respect to the perfect information assumption, the long distance market does not resemble the competitive markets described in economics texts, and the IXC's assume away the problem when they refuse to face this real-world fact.

When competition fails to discipline prices sufficiently to ensure that all consumers can obtain just, reasonable and nondiscriminatory rates, targeted regulation is necessary and appropriate. As recommended in TURN's opening comments, the Commission should require the IXC's to limit the disparity between the per-minute rates paid by high volume and low volume customers, thereby ensuring that all consumers gain the benefits of competition.

## **II. THE IXCs HAVE FAILED TO DEMONSTRATE THAT THEIR FIXED FEES AND MINIMUM CHARGES ARE COST JUSTIFIED**

The NOI recognizes that the nub of the issue in this docket is whether there is a cost justification for the IXC's charges related to the PICC and USF and the IXC's minimum charges. After recounting the pricing schemes of AT&T, MCI Worldcom and Sprint,<sup>23</sup> the NOI recites some of the arguments offered by IXC's to justify their approaches to pricing, such as IXC costs to maintain account and billing records. The FCC then asks, "as a threshold matter", for comments on the validity of such IXC arguments. The Commission specifically requests "whatever data or calculations are necessary to support or refute" the IXC arguments. NOI, ¶ 14.

As this section will show, the IXC's have spurned the FCC's invitation to provide the necessary data or calculations. They fail to justify the practice of assessing fixed fees for USF charges and the practice of charging average PICCs for primary line customers.

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<sup>23</sup> The FCC relies on tariffs to determine the IXC's pricing schemes. However, consumers do not have access to tariffs and instead rely on the information that carriers choose to give them. For that reason, TURN has conducted its own survey, discussed below, to determine what customers are told about available rates and the applicable fees and charges. Although the NOI cites no minimum charge for Sprint, TURN was told only about plans with monthly charges (in addition to the PICC and USF) of at least \$5.00. See Declaration of Hayley C. Goodson ("Goodson Declaration"), Appendix A to these comments, ¶ 10.

In addition, they utterly fail to show that low volume customers cause costs that justify minimum charges between \$3 - \$5 per month.

**A. Large IXCs are Overcharging for the USF and the PICC**

Even though AT&T incurs USF costs on a usage basis, it imposes a flat \$.99 charge on every customer, even those who make no calls and thereby impose no USF costs on AT&T. AT&T's attempt to defend this charge starkly reveals that AT&T uses a different approach to cost causation for high volume and low volume customers.

As the Commission well knows, AT&T and other IXCs have unceasingly argued to the FCC that nontraffic sensitive loop costs should not be recovered on a usage basis, but rather through flat charges. They claim that usage charges lead to overrecovery of loop costs from high-volume customers, thereby causing them to "subsidize" low volume customers. AT&T and the other IXCs reject the approach of recovering loop costs through uniform usage-based charges averaged across all long distance minutes.

However, when the low volume customer's ox is being gored, AT&T forgets its objections to averaging of costs and to overrecovery of costs from a segment of its customer base. With respect to the USF, AT&T sees no problems in averaging those costs and imposing the same averaged charge on all customers, even those who do not cause AT&T to incur any costs. This inconsistency strongly suggests that AT&T's real agenda is not economically efficient pricing, but recovering a disproportionate share of its costs from the customers with the least clout in the marketplace. As will be shown below, this blatant inconsistency plagues AT&T's (and the other IXCs') justification for their PICC and their minimum usage charges.

With respect to the PICC, all three large IXC's appear to have adopted an approach of averaging the costs among all customers and applying an averaged charge of approximately \$1.50 to all customer bills. They do this, even though, for residential customers, a primary line residential customer imposes only \$1.04 in costs on the IXC. This is another example of a selective approach to cost averaging that works to the detriment of low volume customers.

AT&T defends this practice on the grounds that it would be excessively costly to modify its billing systems to charge customers based on the actual cost they cause the IXC's to incur. This is a dubious claim. The IXC's change their rates frequently. Also, since they offer different rates to different customers, AT&T's billing system has to accommodate different charges for different customers. It strains credulity that AT&T's billing system is not currently capable of reflecting changed rates for PICC charges and assessing some customers different PICC's charges than others.

AT&T claims that, if customers dislike the flat USF or the averaged PICC charge, they will not choose AT&T.<sup>24</sup> However, AT&T does not even acknowledge its failure to inform prospective customers of the existence of these charges. As the Commission is undoubtedly well aware, AT&T's current print and television advertisements do not disclose either the USF charge or the PICC charge. Furthermore, as shown below, AT&T's customer service representatives do not volunteer information about either the USF or PICC when they inform potential customers of AT&T's rates. Goodson

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<sup>24</sup> AT&T also offers multiple-level hearsay representations about a survey which supposedly showed that "a majority" of AT&T customers prefer a flat USF charge. The Commission should be extremely skeptical of such representations without carefully reviewing, among other things, the survey questions and the survey methodology.



Declaration, ¶ 5.<sup>25</sup> If customers are not told about charges and are thereby given to believe that they are in the nature of taxes imposed in an equal fashion by all carriers, then customers will not even consider USF charges when selecting a carrier.<sup>26</sup>

**B. The IXCs' Minimum Charges Are Not Cost-Justified**

Notwithstanding the NOI's specific request, the IXCs have failed to provide data and calculations showing that their minimum usage charges are cost justified. AT&T, the only IXC to attempt any serious cost justification, only cites an unsupported "estimate" that its billing and other fixed costs exceed \$3.00 per month. AT&T at 25.<sup>27</sup>

With respect to billing related costs, the most quantitative that AT&T gets is to assert that such costs are "significant". AT&T at 25. This is hardly responsive to the FCC's desire specifically to see quantitative support for the IXCs' argument that minimum charges are designed to recover account maintenance and billing costs. NOI, ¶14. AT&T has offered no information that enables TURN or any other interested party to assist the Commission in assessing the veracity of claims regarding the size of billing and account maintenance costs.

When one considers the other costs that AT&T has included in order to arrive at its \$3.00+ estimate, however, it is likely that billing costs make up only a small portion of AT&T's total figure. AT&T also includes the cost of marketing, maintenance of "sufficient network capacity", customer contacts such as direct mailings, and the maintenance of available customer service. Given the high cost of advertising

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<sup>25</sup> Representatives of MCI Worldcom and Sprint also fail to volunteer information about PICC and USF charges. Goodson Declaration, ¶¶ 8, 11.

<sup>26</sup> In TURN's test calls, one AT&T representative asserted that, like AT&T, all long distance companies charge \$2.50 for the PICC and USF charges.

(particularly the prime-time network television advertising that AT&T uses frequently), marketing costs are likely to make up a large chunk of AT&T's \$3.00+ figure. If maintaining sufficient network capacity means the cost of AT&T's network facilities,<sup>28</sup> then this also would have to be a large piece of the \$3.00+ figure.

AT&T's inclusion of the above-listed categories of costs once again illustrates that it is using an averaging approach to justify its minimum usage charges, rather than focusing on costs specifically caused by low-volume customers.

For example, AT&T apparently believes that it is fair to attribute the same level of marketing costs to low volume and high volume customers. This proposition is unsustainable when one examines the offers that AT&T is spending money to market. To anyone who watches television or reads the newspaper, it is readily apparent that AT&T is now spending huge sums of money to market its 7 cent per minute plan, which carries a \$5.95 monthly fee.<sup>29</sup> In addition, TURN's test calls showed that AT&T's customer service representatives are recommending the 7 cent plan to all customers, even when the service representatives know the customer makes few calls. Goodson Declaration, ¶ 4. For customers with less than 75 minutes of monthly calling, this plan offers a worse deal than, for example, AT&T's 15 cents per minute plan, even with the \$3.00 minimum usage charge. If a customer makes 20 minutes of calls per month, she would pay over \$4 more per month with the 7-cent plan compared to the 15-cent plan.

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<sup>27</sup> Qwest claims fixed costs of \$2.50 to \$3.00 per customer without explaining how it derived this range of costs. Qwest at 11.

<sup>28</sup> In the declaration attached to AT&T's comments, Gregory Rosston describes this category as the costs of the "rights of way, the fiber, and the switching infrastructure." ¶54.

<sup>29</sup> Apparently, in certain situations, the fee can be reduced to \$4.95.

Obviously, the 7-cent plan is not targeted to meet the needs of low volume callers. It is a plan designed to compete for the high volume customer.

Since the 7-cent plan cannot be meant to meet the needs of low volume callers, it violates principles of cost causation to attribute any of the huge costs of marketing this plan to low volume customers. It borders on absurd to justify a \$3.00 minimum charge that adversely affects low volume customers on the grounds that it is necessary to pay for advertising campaigns and telemarketing that are designed exclusively to benefit high volume customers.

AT&T claims that it has other plans that are specifically designed to meet the needs of low volume customers, such as the Monthly Minutes 30 for \$3 plan. AT&T at 27. When was the last time anyone saw or heard an advertisement for this plan? In five test calls, TURN's would-be low volume caller was never told about this plan. Goodson Declaration, ¶4. Clearly, AT&T devotes, at best, a tiny portion of its marketing budget to informing low volume customers of plans designed to meet their needs.<sup>30</sup>

It is even more absurd for AT&T to attribute an equal share of "network capacity" costs to low volume customers. By definition, such customers do not determine the capacity needs of the network. Network capacity requirements are determined by the needs of high volume customers, not small users.

In sum, if one applies to this NOI the same approach to cost causation that the IXCs use to complain about supposed subsidy burdens on high volume customers, *i.e.*,

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<sup>30</sup> AT&T might argue that the costs of its mailers informing customers of the \$3.00 minimum charge should be attributed to low volume customers. However, it would be the height of circular reasoning to allow AT&T to justify its \$3.00 minimum based on costs to inform customers of a charge that appears to have no cost justification.

one that focuses on the costs specifically caused by the low volume market segment, then the IXC's have failed to justify any minimum usage charge on customer bills.

### **III. THE IXCs BLIND THEMSELVES TO REAL WORLD FACTS THAT PREVENT MARKET FORCES FROM DISCIPLINING PRICES FOR LOW VOLUME CUSTOMERS**

The IXC's engage in a dangerous combination of circular reasoning and head-in-the-sand analysis to justify their high fixed fees and minimum charges. There is no problem, they say, because the market is competitive and textbook economic theory tells us that whatever results from a competitive market is good for consumers. They assert that carriers must tailor their offers to meet the needs of all consumers, including low volume users, or else be punished in the marketplace. They cite rates that can be found in tariff books as evidence that carriers indeed offer good deals for presubscribed low volume customers. For example, AT&T cites its 30 minutes for \$3 plan, AT&T at 27, as well as a Sprint plan that has no minimum usage charges. AT&T at 13, fn. 7. Dr. Rosston for AT&T opines that the market compels IXC's to tailor pricing plans that satisfy customer preferences. Rosston Declaration, ¶3.

Unfortunately, the real world of long distance rates is very different from the marketplace depicted in economics texts and tariffs. Tariffs are unavailable and impenetrable to consumers and therefore irrelevant to assessing what rates are actually being offered and what information is actually being conveyed. For this reason, the Commission should not even consider tariff information in assessing the state of information that is available in the real world.

TURN has conducted a telephone survey of AT&T, MCI Worldcom, and Sprint to assess what information consumers are actually receiving about long distance rates.

TURN's legal assistant, Hayley Goodson, placed a total of 13 calls to the big three carriers -- five to AT&T, and four each to MCI and Sprint. She posed as a low volume customer seeking the best deal. Goodson Declaration, ¶¶ 1-2. The findings contrast sharply with the world portrayed by the IXC's.

Not one of the 13 carrier representatives volunteered any information about PICC charges and USF charges. Goodson Decl., ¶¶ 4, 8, 11. Even after specifically asking for information about additional fees and charges, four representatives still failed to reveal the existence of PICC and USF charges. *Id.*, ¶14. One AT&T representative said that all carriers charge the same \$2.50 for the PICC and USF. *Id.*, ¶6. In addition, two representatives failed to disclose monthly fees applicable to the calling plan being promoted. *Id.*, ¶14.

Even though Ms. Goodson was posing as a low volume caller, every single one of the 13 representatives first recommended plans that had high monthly fees or minimum charges that were more appropriate for high volume callers. *Id.*, ¶13. For instance, four of the five AT&T representatives first suggested the 7-cent plan that carries a monthly fee of either \$4.95 or \$5.95. *Id.*, ¶4. None of the AT&T representatives suggested plans that AT&T describes in its comments as potentially attractive to low volume customers. *Id.* Likewise, three of the four Sprint representatives recommended plans that carry a \$5.95 monthly fee. *Id.*, ¶10.

In addition, for each of the three IXC's, different representatives offered conflicting information about that IXC's intrastate rates, which most customers need to consider if they are making a rational choice of a presubscribed carrier. *Id.*, ¶ 15.

This snapshot of the real world shows that something is seriously wrong in the long distance market. The large IXC's feel no need to recommend plans tailored to a customer's needs. Instead, they push the plans that they want to sell, regardless of whether the plan is the best one for the customer. Quite obviously, the large IXC's are not concerned that they will be punished in the marketplace if they sell a customer the wrong plan.

Moreover, while the tariffs may contain a plethora of rate plans, low volume consumers are not informed of the plans that best suit their needs. In addition, consumers are not informed about PICC and USF charges, thereby thwarting the inclusion of such charges in comparison shopping. And consumers are often not given accurate rate information about both interstate and intrastate charges, particularly the latter. Customers who make intrastate long distance calls, such as most Californians, cannot make a rational choice of a presubscribed carrier unless they are given reliable information about intrastate rates.

When the Commission looks at the real world, it will see that competition is not disciplining prices for the benefit of low volume customers. Contrary to the wishful thinking of the IXC's, there is indeed a problem – low volume customers are paying far more than their fair share for long distance service. The IXC's are successfully recovering a disproportionate amount of costs from customers who are not the cost causers. Among other reasons, this is happening because low volume customers lack clout in the marketplace and because they are not getting the information they need in order to vote with their feet. Unfortunately, with respect to the perfect information assumption, the long distance market does not resemble the competitive markets described in economics

texts, and the IXC's assume away the problem when they refuse to face this real-world fact.

#### **IV. CONCLUSION**

When competition fails to discipline prices sufficiently to ensure that all consumers can obtain just, reasonable and nondiscriminatory rates, targeted regulation is necessary and appropriate. As recommended in TURN's opening comments, the Commission should require the IXC's to limit the disparity between the per-minute rates paid by high volume and low volume customers, thereby ensuring that all consumers gain the benefits of competition.

Dated: October 20, 1999

Respectfully submitted,

**THE UTILITY REFORM NETWORK**

By /s/ Thomas J. Long  
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